

Hearing Date: August 12, 2010
Hearing Time: 10:00 a.m. (prevailing Eastern time)

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
155 North Wacker Drive
Chicago, Illinois 60606
John Wm. Butler, Jr.
John K. Lyons
Ron E. Meisler

- and -

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
Four Times Square
New York, New York 10036
Kayalyn A. Marafioti

Attorneys for DPH Holdings Corp., et al.,
Reorganized Debtors

DPH Holdings Corp. Legal Information Hotline:
Toll Free: (800) 718-5305
International: (248) 813-2698

DPH Holdings Corp. Legal Information Website:
<http://www.dphholdingsdocket.com>

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re	:	Chapter 11
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DPH HOLDINGS CORP., <u>et al.</u> ,	:	Case No. 05-44481 (RDD)
	:	
	:	(Jointly Administered)
Reorganized Debtors.	:	
	:	
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REORGANIZED DEBTORS' STATEMENT OF DISPUTED ISSUES
WITH RESPECT TO PROOFS OF CLAIM NUMBERS 10123 AND 10393
(HERAEUS ENTITIES)

("STATEMENT OF DISPUTED ISSUES – HERAEUS ENTITIES")

DPH Holdings Corp. and certain of its affiliated reorganized debtors in the above-captioned cases (collectively, the "Reorganized Debtors"), hereby submit this Statement Of Disputed Issues (the "Statement of Disputed Issues") With Respect To Proofs Of Claim Numbers 10123 And 10393 filed by the Heraeus Entities¹ and respectfully represent as follows:

Background

1. On October 8 and 14, 2005 (the "Petition Date"), Delphi Corporation ("Delphi") and certain of its subsidiaries and affiliates, including Delphi Automotive Systems LLC ("DAS LLC"), ASEC Manufacturing General Partnership ("ASEC"), and Delphi Mechatronic Systems, Inc. ("Mechatronics") (collectively, the "Debtors"), predecessors of the Reorganized Debtors, filed voluntary petitions under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1330, as then amended (the "Bankruptcy Code"), in the United States Bankruptcy Court for the Southern District of New York (the "Court").

2. Prior to the Petition Date, certain of the Debtors manufactured and sold various products to the Heraeus Entities (the "Delphi Products").

3. Prior to the Petition Date, the Heraeus Entities manufactured and sold various products to the Debtors (the "Heraeus Products").

4. On or about December 6, 2005, the Heraeus Entities asserted certain rights of setoff pursuant to section 553 of the Bankruptcy Code and that certain Mutual Setoff Agreement, dated August 10, 2005, by and between certain of the Heraeus Entities and the Debtors (the "Setoff Request").

¹ The Heraeus Entities include (a) Heraeus Amersil, Inc. aka Heraeus Tenevo ("Heraeus Amersil"), (b) Heraeus, Inc., Circuit Metals Division aka Heraeus Cermalloy, Inc., and Heraeus, Inc. Cermalloy Division (collectively, "Heraeus Circuit Metals Division"), (c) Heraeus Precious Metals, LLC ("Heraeus Precious Metals"), (d) Heraeus Metal Processing, Inc. ("Heraeus Metal Processing,"), and (e) Heraeus, Inc., Circuit Materials Division a/k/a Heraeus Cermalloy, Inc., and Heraeus, Inc., Cermalloy Division (collectively, "Heraeus Circuit Materials Division,")

5. On July 21, 2006, Heraeus Metal Processing filed proof of claim number 10123 against ASEC asserting an unsecured non-priority claim in the amount of \$322,860.53 arising from, among other things, the sale of Heraeus Products ("Claim 10123").

6. On July 24, 2006, Heraeus Circuit Materials Division filed proof of claim number 10393 against Mechatronics asserting an unsecured non-priority claim in the amount of \$594,923.93 arising from, among other things, the sale of Heraeus Products ("Claim 10393" and together with Claim 10123, the "Claims"). As acknowledged in the attachment to Claim 10393, Heraeus Precious Metals owes DAS LLC a receivable of \$488,660.90 (the "Receivable").

7. On October 31, 2006, the Debtors objected to the Debtors' (I) Third Omnibus Objection (Substantive) Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 3007 To Certain (A) Claims With Insufficient Documentation, (B) Claims Unsubstantiated By Debtors' Books And Records, And (C) Claims Subject To Modification And (II) Motion To Estimate Contingent And Unliquidated Claims Pursuant To 11 U.S.C. § 502(c) (Docket No. 5452) (the "Third Omnibus Claims Objection").

8. On November 21, 2006, the Claimant filed Heraeus' Response To The Debtors' Second Omnibus Objection To Claims And Third Omnibus Objection To Claims (Docket No. 5652) (the "Response").

9. On or about April 30, 2007, Heraeus Metal Processing transferred Claim 10123 to Contrarian Funds, LLC ("Contrarian") and Heraeus Circuit Metals transferred Claim 10393 to Liquidity Solutions, Inc. ("LSI").

10. On or about May 4, 2007, LSI transferred Claim 10393 to SPCP Group, L.L.C., as agent for Silver Point Capital Fund L.P., and Silver Point Capital Offshore Fund, Ltd. ("Silver Point," and collectively with the Heraeus Entities and Contrarian, the "Claimant").

11. On October 6, 2009, the Debtors substantially consummated the First Amended Joint Plan Of Reorganization Of Delphi Corporation And Certain Affiliates, Debtors And Debtors-In-Possession, As Modified (the "Modified Plan"), which had been approved by this Court pursuant to an order entered on July 30, 2009 (Docket No. 18707), and emerged from chapter 11 as the Reorganized Debtors. In connection with the consummation of the Modified Plan, Delphi, DAS LLC, Mechatronnics, and ASEC emerged from chapter 11 as DPH Holdings Corp., DPH-DAS LLC, DPH-Mechatronic Systems, LLC, and ASEC Manufacturing General Partnership, respectively. Article 9.6(a) of the Modified Plan provides that "[t]he Reorganized Debtors shall retain responsibility for administering, disputing, objecting to, compromising, or otherwise resolving all Claims against, and Interests in, the Debtors and making distributions (if any) with respect to all Claims and Interests." Modified Plan, art. 9.6.

12. On June 8, 2010, the Reorganized Debtors filed the Notice Of Claims Objection Hearing With Respect To Debtors' Objection To Proofs Of Claim Numbers 10123 and 10393 (Heraeus Entities) (Docket No. 20232), scheduling an evidentiary hearing on the merits of the Claims for August 12, 2010, at 10:00 a.m. (prevailing Eastern Time) in this Court.

Disputed Issues

A. The Debtors Do Not Owe Claimants The Amount Asserted In The Proofs Of Claim

13. The Claimant asserts (i) in Claim 10393 that Mechatronics owes the Claimant \$594,923.93 based on goods sold and (ii) in Claim 10123 that ASEC owes the Claimant \$322,860.53 based on good sold. The Reorganized Debtors have reviewed the information attached to the Proofs of Claim and the Response and dispute the amount asserted in each Claim.

14. Claim 10393. On September 28, 2007, Claim 10393 was capped at zero pursuant to the this Court's Order Pursuant To 11 U.S.C. §§ 105(a) And 502(c) (A) Estimating And Setting Maximum Cap On Certain Contingent Or Unliquidated Claims And (B) Approving Expedited Claims Estimation Procedures (Docket No. 9685).

15. In addition, Claim 10393 was duplicative of proof of claim number 10394 ("Claim 10394"), which was asserted in the same exact amount as Claim 10393. Claim 10394 was ordered allowed as a general unsecured non-priority claim in the amount of \$503,252.02 pursuant to this Court's Order Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 3007 (I) Expunging (A) Certain Salaried Pension And OPEB Claims, (B) Certain Wage And Benefit Claims, And (C) Certain Individual Workers' Compensation Books And Records Claims And (II) Modifying And Allowing Certain Claims (Docket No. 18932). Because the underlying claim asserted in Claim 10393 has been satisfied by the allowance of Claim 10394, Claim 10393 should be disallowed and expunged in its entirety. Furthermore, as acknowledged in the attachment to Claim 10393, Heraeus Precious Metals owes DPH-DAS LLC the total sum of \$488,660.90 as settlement of the Receivable.

16. Claim 10123. Based upon the Debtors' various accounts payable records, \$306,172.40 of the amounts reflected in Claim 10123 have been paid due to cure payments made pursuant to section 365 of the Bankruptcy Code. This cure payment was made in the form of wire number 3709300290JO0000, which was wired on October 17, 2008 to Heraeus Metal Processing. Therefore, \$306,172.40 should be subtracted from the amount claimed against ASEC.

17. After taking into account the above-referenced deductions to the Proof of Claim, the Debtors reconciled the Claim 10123 as illustrated in the following chart:

<u>Claimant's Asserted Amount</u>		\$322,860.53
<u>Modifications</u>	Cure Payment	(\$306,172.40)
<u>Reconciled Amount</u>		\$16,688.13

18. ASEC Manufacturing General Partnership does not dispute the remaining \$16,688.13 of Claim 10123 and requests that Claim 10123 be reduced to and allowed as a general unsecured non-priority claim against ASEC Manufacturing General Partnership in the amount of \$16,688.13.

Reservation Of Rights

19. This Statement Of Disputed Issues is submitted by the Reorganized Debtors pursuant to paragraph 9(d) of the Order Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 2002(m), 3007, 7016, 7026, 9006, 9007, And 9014 Establishing (i) Dates For Hearings Regarding Objections To Claims And (ii) Certain Notices And Procedures Governing Objections To Claims (Docket No. 6089) (the "Claims Objection Procedures Order"). Consistent with the provisions of the Claims Objection Procedures Order, the Reorganized Debtors' submission of this Statement Of Disputed Issues is without prejudice to (a) the Reorganized Debtors' right to later identify and assert additional legal and factual bases for disallowance, expungement, reduction, or reclassification of the Claim(s) and (b) the Reorganized Debtors' right to later identify additional documentation supporting the disallowance, expungement, reduction, or reclassification of the Claim.

WHEREFORE the Reorganized Debtors respectfully request that this Court enter an order (a) disallowing and expunging proof of claim number 10393 in its entirety, (b) allowing proof of claim number 10123 as a general unsecured non-priority claim against ASEC Manufacturing General Partnership in the amount of \$16,688.13, (c) requiring Heraeus Precious Metals to pay DPH-DAS LLC the total sum of \$488,660.90 as settlement of the Receivable within ten (10) days following entry of the order, and (d) granting the Reorganized Debtors such other and further relief as is just.

Dated: New York, New York
June 15, 2010

SKADDEN, ARPS, SLATE, MEAGHER
& FLOM LLP

By: /s/ John Wm. Butler, Jr.
John Wm. Butler, Jr.
John K. Lyons
Ron E. Meisler
155 North Wacker Drive
Chicago, Illinois 60606

- and -

By: /s/ Kayalyn A. Marafioti
Kayalyn A. Marafioti
Four Times Square
New York, New York 10036

Attorneys for DPH Holdings Corp., et al.,
Reorganized Debtors